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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,711	09/25/2003	Tetsuya Shimada	088473-0148	6374
22428	7590	08/10/2005	EXAMINER	
FOLEY AND LARDNER SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			LE, DAVID D	
			ART UNIT	PAPER NUMBER
			3681	

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/669,711

Applicant(s)

SHIMADA ET AL.

Examiner

David D. Le

Art Unit

3681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11 and 12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 11 and 12 is/are rejected.
- 7) ☒ Claim(s) 5-9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 04/07/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This is the second Office action on the merits of Application No. 10/669,711, filed 25 September 2003. Claims 1-9 and 11-12 are pending.

Documents

2. The following documents have been received and filed as part of the patent application:
 - Information Disclosure Statement, received on 09/25/03
 - Information Disclosure Statement, received on 04/07/05
 - Replacement Drawing, received on 04/07/05

Drawings

3. The drawing of Fig. 2 was received on 07 April 2005. This drawing is approved.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-4 and 11-12 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,199,399 to Shibuya.

Claims 1-4 and 11-12:

Shibuya (Figs. 1-4; column 2, line 24 – column 7, line 31) discloses a system and a method for controlling an engine idling speed for an internal combustion engine associated with an electro-continuously variable transmission comprising:

- An internal combustion engine (i.e., column 3, lines 40-41);
- A continuously variable transmission (i.e., column 3, lines 41-42);
- A belt (19);
- A primary pulley (16);
- A secondary pulley (17);
- An oil pump (21);
- A gear shift control section (being the control unit 14) for outputting the command signal to the gear shift actuator to supply the control hydraulic to the primary and secondary pulleys;
- A hydraulic pressure control valve mechanism (20) for controlling the optimum hydraulic pressure (i.e., column 4, lines 5-34);
- A plurality of shift control valves for controlling all gear shift ranges (i.e., column 4, lines 10-13);
- An electro-continuously variable transmission control unit (14) for determining whether a slip of the belt between at least one of the primary and the secondary pulleys has occurred;

- An engine control unit (30) for increasing the engine revolution speed to a speed that prevents the belt slip phenomenon (i.e., column 6, lines 59 – 66);
- Wherein the belt slip determining section determines if the belt slip therebetween occurs when the vehicle is started and the output section outputs the signal to command the engine control unit to increase an engine idling speed by the inherently predetermined engine speed when the belt slip determining section determines that the slip therebetween occurs and when the vehicle is started (i.e., column 5, line 14 – column 6, line 66; column 7, lines 10-26); and
- Wherein the gear shift controlling section outputs a signal indicating a demand on an output torque upper limit value to the engine control unit when outputting the signal to command the engine control unit to increase the engine idling speed by the predetermined engine speed (i.e., column 6, lines 59-66; column 7, lines 10-26).

Allowable Subject Matter

6. Claims 5-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

7. Applicant's arguments filed 07 April 2005, with respect to claims 1-4 and 11-12, have been fully considered but they are not persuasive.

Applicant argues, page 13 of the remarks filed on 07 April 2005, "although Shibuya teaches increasing the engine speed (to prevent belt slippage), Shibuya does not specify the amount by which the engine speed is to be increased and, therefore, Shibuya fails to teach or suggest that the engine speed is increased by a specific "predetermined" amount, as recited in claim 1."

Examiner respectfully disagrees for the reason as set forth in paragraph 5 and further explained as follows:

As stated in the Shibuya'399 reference (column 6, lines 59-66), "when the anti-lock brake mechanism is turned off, the steel belt of the ECVT slips since a force to rotate the associated tires wheels is large. To prevent such slip phenomenon, the engine revolution speed is increased so as to increase the drained pressure of the oil pump and to increase the belt tension." With this teaching, it is reasonable to interpret that Shibuya'399 does inherently suggest *a predetermined engine revolution speed* that the engine speed is to be increased to in order to increase the drained pressure of the oil pump to a sufficient amount, which increases the belt tension and prevents the slip phenomenon.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David D. Le whose telephone number is 571-272-7092. The examiner can normally be reached on Mon-Fri (0700-1530).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


ddl


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